

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

IN RE
INTEL CORPORATION
MICROPROCESSOR ANTITRUST
LITIGATION

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) MDL No. 1717-JJF
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ADVANCED MICRO DEVICES, INC., a
Delaware corporation, and AMD
INTERNATIONAL SALES & SERVICES, LTD.,
a Delaware corporation,

Plaintiffs,

v.

)
)
) C.A. No. 05-441-JJF
)
)
)

INTEL CORPORATION, a Delaware corporation,
and INTEL KABUSHIKI KAISHA, a Japanese
corporation,

Defendants.

PHIL PAUL, on behalf of himself
and all others similarly situated,

Plaintiffs,

v.

)
)
) C.A. No. 05-485-JJF
)
)
)

CONSOLIDATED ACTION

INTEL CORPORATION,

Defendants.

**AMD’S RESPONSE TO MOTION (1) TO INTERVENE FOR PURPOSE OF
UNSEALING JUDICIAL RECORDS AND (2) FOR PARTIAL REASSIGNMENT**

On August 21, 2008, the New York Times Company, Situation Publishing Ltd., Dow Jones & Co., Inc., the Washington Post, the Reporters Committee for Freedom of the Press, and

Computer & Communications Industry Association (“Movants”) filed a Motion (1) to Intervene for the Purpose of Unsealing Judicial Records and for (2) Partial Reassignment (D.I. No. 840) (“Motion to Intervene”). Advanced Micro Devices, Inc. and AMD International Sales & Service, Ltd. (collectively “AMD”) do not oppose the Movant’s motion to unseal the Parties’ Preliminary Cases Statements (D.I. Nos. 625, 627, 628, 629, 634, 635, 645, 646, 648) and transcripts of teleconferences and hearings currently under seal (D.I. Nos. 633, 647, 683). Moreover, the transcript of the hearing held on June 5, 2008 (D.I. No. 683) should not have been designated as sealed (and inexplicably is designated “For Intel’s Eyes Only”) because it was not conducted on that basis. Indeed, Intel has quoted portions of that transcript in two public filings thereafter. Intel and AMD agree on this point and agree that the transcript should be unsealed.

The public’s right of access to these judicial records cannot be denied absent compelling justification and showing of clearly defined and serious harm. *See, e.g., In re Cendant Corp.*, 260 F.3d 183, 192-94 (3d Cir. 2001) (noting that the right of public access is particularly compelling where members of the public are also plaintiffs in the class action).¹ As a party, AMD, believes there is no compelling justification or showing of clearly defined and serious harm here that warrants denying the public access to the those documents. Thus, the materials filed under seal in this case (D.I. Nos. 625, 627, 628, 629, 633, 634, 635, 645, 646, 647, 648, 683) should be unsealed. That said, should the Court determine that any documents should remain

¹ *See* Motion to Intervene at 4 (“a party seeking to maintain under seal documents filed with a court has the burden of demonstrating (i) that there is a compelling interest warranting sealing, (ii) that sealing will result in a clearly defined and serious injury, and (iii) the private interest in secrecy outweighs the strong presumption of public access.”) (citing *In re Cendant Corp.*, 260 F.3d at 193-94; *Littlejohn v. BIC Corp.*, 851 F.2d 673, 678 (3d Cir. 1988); *Miller v. Indiana Hosp.*, 16 F.3d 549, 551 (3d Cir. 1994); *Publicker Indus., Inc. v. Cohen*, 733 F.2d 1059, 1066-71 (3d Cir. 1984)). No such showing has been made here.

under seal, AMD asks that its material be accorded the same treatment as that of Intel and the third parties.

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Dated: September 5, 2008

/s/ Frederick L. Cottrell, III

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CERTIFICATE OF SERVICE

I hereby certify that on September 5, 2008, I electronically filed the foregoing document with the Clerk of Court using CM/ECF and have sent by Hand Delivery to the following:

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